

REMARKS

The Examiner's rejection of claims 1-2 and 5 under 35 USC § 102(b) for being anticipated by the Varn U.S. Patent No. 5,571,206, as this rejection may be attempted to be applied to the amended claims 1-2 and 5, is respectfully traversed.

First of all, in support of this traverse, it is to be noted that claim 1 has been amended to include the subject matter set forth at lines 6-21 on page 3 of the original description, referring to the structure shown in FIG. 2.

Secondly, the Varn patent discloses a keg amputee orthosis having a rigid, but **pivotal** frame. This orthosis is not for maintaining the knee in a rest position.

Further, Varn discloses a covering section and tie strips, while the splints 14, 16 are not stabilizer sticks, but adjustable parts of the pivotal frame. Varn shows a removable liner 92 comprising, for the comfort of the wearer a padded inner side 94. Liner 92 also protects the end of the patient's residual limb. (col. 5, lines 39 – 55). This comfort-padding is not intended to exert any pressure toward the calf.

In contradistinction, applicant's padding pushes onto the calf and exerts a forward directed force onto the calf. It thus prevents the calf from being urged in the area of the knee into the so-called posterior drawer, since this would result in a lax ingrowth of the posterior cruciate ligament after surgery.

Varn does not deal with such surgery, but with controlling knee flexion of a leg amputee. He therefore does not propose to have a padding **pushing** onto the calf.

Accordingly, the structure defined now even more clearly in amended claim 1, namely that upper, anterior tie strips push the thigh backwards and lower posterior tie strips support a padding for the calf connected to the central part of the covering section, and said padding for the calf pushes onto the calf and exerts a forward directed force onto the calf is not disclosed by or suggested by the Varn patent.

The Examiner's rejection of claim 3 under 35 USC § 102(b) for being anticipated by the Neal U.S. Patent No. 4,886,053, as this rejection may be attempted to be applied to the amended claim 3, is respectfully traversed.

Also the Examiner's rejection of claim 3 under 35 USC § 102(b) for being anticipated by the Meier et al. U.S. Patent No. 4,423,720, as this rejection may be attempted to be applied to the amended claim 3, is respectfully traversed.

In support of this traverse it is noted that claim 3 is now dependent on claims 1 and 2 directed not only to the features of claim 1 underlined above, but also the feature of the padding for the calf (9) protruding out of the splint (1) toward the Achilles tendon, as well as the feature of: the padding for the calf (9) only having a bifurcated lower end for encompassing the Achilles tendon on both sides.

Note that Neal only teaches a stay for an orthopedic appliance for a knee which has a bifurcated section including a bulbous opening for being placed over a fibular head adjacent a peroneal nerve, adjacent the knee on the side of the knee. This is NOT "a bifurcated lower end for encompassing the Achilles tendon on both sides".

Also, note that Meier et al. only teaches a patellar stabilizing orthosis including a U-shaped body having one leg which is adapted to be wound around the lower thigh and another leg which is adapted to be wound around the upper calf adjacent the knee. Again, this is NOT "a bifurcated lower end for encompassing the Achilles tendon on both sides".

The Examiner's rejection of claim 4 for being unpatentable under 35 USC § 103(a) over the Grim et al. U.S. Patent No. 4,953,543 in view of the Moore U.S. Patent No. 3,831,467, along with the Grim et al. U.S. Patent No. 4,996,979, as this rejection may be attempted to be applied to the amended claim 4, is respectfully traversed

In support of this traverse, it is first of all noted that neither Grim et al. '543 nor Moore '467 nor Grim et al. '979 teach or suggest:

An orthopedic splint for maintaining the knee in a rest position, comprising a covering section with stabilizing sticks as well as tie strips which are constructed and arranged for fastening the covering section around the leg above and below the knee with the covering section positioned behind the leg and knee,

wherein upper, anterior tie strips push the thigh backwards and lower posterior tie strips support a padding for the calf connected to a central part of the covering section,

wherein said padding for the calf pushes onto the calf and exerts a forward directed force onto the calf, and

wherein the padding for the calf (9) comprises a foamed body which is reinforced, on the side of the padding away from the leg, with a plastic brace (18), and the foamed body has a radius enabling it to fit snugly about the calf.

All that Grim et al. '543 teaches is a cruciate support assembly 58 including a rear plate 72 and padding 74 in a cruciate ligament leg brace. If desired, an air bladder 124 can be used instead of the padding.

Note that the Grim et al. '543 patent only discloses a leg brace comprising inter alia a padding extending circumferentially of the thigh, a pair of hinge assemblies, posterior cruciate ligament support means for providing adjustable anteriorly directed force to the posterior of the calf AND anterior cruciate ligament support means for providing adjustable posteriorly directed force to the anterior of the tibia. This feature is included claim 1 of Grim et al. This support means 58, 60 are composed of plates, paddings and straps which are tightened by extending through metal loops of support struts. This is not the same structure as defined, now even more clearly, in amended claim 1 and claim 4.

All that Moore '467 teaches is a pad 42 made of foam which rests against a calf.

All that Grim et al. '979 teaches is a soft-goods type formable orthopaedic cast including a plastic splint rib 34.

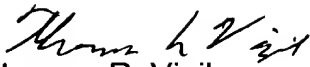
Simply stated, a combination of Grim et al. '543, Moore '467 and Grim et al. '979 does not teach or suggest an orthodontic splint having the combination of features set forth above.

In summary, applicant submits that the splint as now claimed in the amended claims, clearly distinguishes applicant's splint from the teachings of all the references cited in this application and that all the claims are now in condition for allowance. An early and favorable action to that end is requested.

Respectfully submitted,

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